

Assembly Bill No. 2336

Passed the Assembly May 16, 2002

Chief Clerk of the Assembly

Passed the Senate June 10, 2002

Secretary of the Senate

This bill was received by the Governor this _____ day of
_____, 2002, at _____ o'clock __M.

Private Secretary of the Governor

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CHAPTER _____

An act to amend Section 2625 of the Penal Code, relating to prisoners.

LEGISLATIVE COUNSEL'S DIGEST

AB 2336, Negrete McLeod. Prisoners: hearing notice.

Under existing law, in specified actions or proceedings in which a prisoner's parental or marital rights are subject to adjudication, an order for the prisoner's temporary removal from the institution and for the prisoner's production before the court may be made by the superior court of the county in which the action or proceeding is pending, or by a judge thereof. Existing law requires that a copy of the order be transmitted to the warden, superintendent, or other person in charge of the institution not less than 48 hours before the order is to be executed.

This bill would require that instead a copy of the order be transmitted not less than 15 days before the order is to be executed.

The people of the State of California do enact as follows:

SECTION 1. Section 2625 of the Penal Code is amended to read:

2625. (a) For the purposes of this section only, the term "prisoner" includes any individual in custody in a state prison, the California Rehabilitation Center, or a county jail, or who is a ward of the Department of the Youth Authority or who, upon a verdict or finding that the individual was insane at the time of committing an offense, or mentally incompetent to be tried or adjudged to punishment, is confined in a state hospital for the care and treatment of the mentally disordered or in any other public or private treatment facility.

(b) In any proceeding brought under Part 4 (commencing with Section 7800) of Division 12 of the Family Code, and Section 366.26 of the Welfare and Institutions Code, where the proceeding seeks to terminate the parental rights of any prisoner, or any proceeding brought under Section 300 of the Welfare and Institutions Code, where the proceeding seeks to adjudicate the child of a prisoner a dependent child of the court, the superior court



of the county in which the proceeding is pending, or a judge thereof, shall order notice of any court proceeding regarding the proceeding transmitted to the prisoner.

(c) Service of notice shall be made pursuant to Section 7881 or 7882 of the Family Code or Section 337 or 366.23 of the Welfare and Institutions Code, as appropriate.

(d) Upon receipt by the court of a statement from the prisoner or his or her attorney indicating the prisoner's desire to be present during the court's proceedings, the court shall issue an order for the temporary removal of the prisoner from the institution, and for the prisoner's production before the court. No proceeding may be held under Part 4 (commencing with Section 7800) of Division 12 of the Family Code or Section 366.26 of the Welfare and Institutions Code and no petition to adjudge the child of a prisoner a dependent child of the court pursuant to subdivision (a), (b), (c), (d), (e), (f), (i), or (j) of Section 300 of the Welfare and Institutions Code may be adjudicated without the physical presence of the prisoner or the prisoner's attorney, unless the court has before it a knowing waiver of the right of physical presence signed by the prisoner or an affidavit signed by the warden, superintendent, or other person in charge of the institution, or his or her designated representative stating that the prisoner has, by express statement or action, indicated an intent not to appear at the proceeding.

(e) In any other action or proceeding in which a prisoner's parental or marital rights are subject to adjudication, an order for the prisoner's temporary removal from the institution and for the prisoner's production before the court may be made by the superior court of the county in which the action or proceeding is pending, or by a judge thereof. A copy of the order shall be transmitted to the warden, superintendent, or other person in charge of the institution not less than 15 days before the order is to be executed. The order shall be executed by the sheriff of the county in which it shall be made, whose duty it shall be to bring the prisoner before the proper court, to keep the prisoner safely, and when the prisoner's presence is no longer required, to return the prisoner to the institution from which he or she was taken. The expense of executing the order shall be a proper charge against, and shall be paid by, the county in which the order shall be made.

The order shall be to the following effect:



County of _____ (as the case may be).

The people of the State of California to the warden of _____:

An order having been made this day by me, that A. B. be produced in this court as a party in the case of _____, you are commanded to deliver A. B. into the custody of _____ for the purpose of (recite purposes).

Dated this _____ day of _____, 19____.

(f) When a prisoner is removed from the institution pursuant to this section, the prisoner shall remain in the constructive custody of the warden, superintendent, or other person in charge of the institution.

(g) Notwithstanding any other law, a court may not order the removal and production of a prisoner sentenced to death, whether or not that sentence is being appealed, in any action or proceeding in which the prisoner's parental rights are subject to adjudication.



Approved _____, 2002

Governor

